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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/727,672      | 12/04/2003  | Biplav Srivastava    | JP920030196US1      | 8927             |

7590 09/29/2008  
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| EXAMINER |
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TRUONG, CAMQUY

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| ART UNIT | PAPER NUMBER |
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2195

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| MAIL DATE | DELIVERY MODE |
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09/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/727,672 | <b>Applicant(s)</b><br>SRIVASTAVA ET AL. |  |
|                              | <b>Examiner</b><br>CAMQUY TRUONG     | <b>Art Unit</b><br>2195                  |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/4/03, 4/9/07</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-13 are presented for examination.
2. The drawings filed on 12/22/2003 are acknowledge and acceptable.

### ***Claim Objections***

The specification is objected to for potential 101 problem as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d) (1) and MPEP § 608.01(o). Appropriate correction is required because the specification does not provide antecedent basis for "computer-readable medium" as recited in line 1 of claim 7.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 8-13 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.
4. Claim 8 is rejected under 35 U.S. C. 101 because the claimed invention is directed to computer system claims, but appearing to be comprised of software alone without claiming associated computer hardware required for execution. For example,

Art Unit: 2195

claim 8 defines “computer system” in the preamble and the body of the claim recites “computer software code means for storing”, “computer software code means for determining”, and “computer software code means for evaluating”. Computer software code performs the storing step, computer software code performs determining step, and computer software code performs evaluating step. Therefore, claim 8 is non-statutory because it recites system claim that comprises software per se embodiments.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Charisius et al. (U.S. 2002/0078432 A1).

6. As to claim 1, Charisius teaches the invention as claimed including: a method for composing network accessible services said method comprising the steps of:

storing an abstract plan (storing the project plan within an identified project plan group, paragraph 166, lines 7-8; and lines 18-19) that specifies a set of logical processes (the plan 800 includes two serial tasks, paragraph 127-129) in a predetermined form (store planned task as a record in each database table format, paragraph 224);

Art Unit: 2195

determining an instantiated plan (resource profile, paragraph 120) that specifies at least one particular service that can perform each one of the logical processes of the abstract plan (identify resources that are capable of performing the role when assigned to task in the plan, paragraph 172; paragraph 120; paragraph 108); and

evaluating said instantiated plan for violations of predetermined constraints relating to execution of the instantiated plan ( evaluating resource reassignment condition 7004, paragraphs 154, 218-220).

7. As to claim 2, Charisius teaches the step of rejecting an instantiated plan if the evaluated instantiated plan violates at least one of the predetermined constraints (verify that the resource is not overloaded, paragraph 120) .

8. As to claim 3, Charisius teaches comprising determining a set of parameters concerning the instantiated plan, and an approximate range of each of the parameters (paragraphs 1071108).

9. As to claim 4, Charisius teaches composing an alternative abstract plan if the evaluated instantiated plan violates at least one of the predetermined constraints (paragraph 166).

10. As to claim 5, Charisius teaches the abstract plan specifies an ordered set of logical processes (priority of tasks, paragraph 173).

11. As to claim 6, Charisius teaches wherein the abstract plan is represented in a predetermined form using a web services composition language (paragraph 191).
12. As to claim 7, it is rejected for the same reason as claim 1.
13. As to claim 8, it is rejected for the same reason as claim 1.
14. As to claim 9, it is rejected for the same reason as claim 2.
15. As to claim 10, it is rejected for the same reason as claim 3.
16. As to claim 12, it is rejected for the same reason as claim 4.
17. As to claim 13, it is rejected for the same reason as claim 6.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMQUY TRUONG whose telephone number is (571)272-3773. The examiner can normally be reached on 9:00am - 5:30pm.

Art Unit: 2195

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai An can be reached on (703)305-9678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/  
Supervisory Patent Examiner, Art Unit 2195

Camquy Truong

September 18, 2008